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| 10/727,785      | 12/04/2003  | Mauro Cere           | BUGZ 200213         | 3907             |

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EXAMINER

TRUONG, THANH K

ART UNIT PAPER NUMBER

3721

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/727,785

Applicant(s)

CERE, MAURO

Examiner

Thanh K Truong

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/4/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 5 and 6 are objected to because of the following informalities: claims 5 and 6 recited “the gripper consists of a telescopic unit comprising” (emphases added), and it is unclear what is the metes and bounds of the claimed invention. The phrase “Consists of” defined as closing the claim to the inclusion of materials other than those recited, but the phrase “comprising” defined as opening for the inclusion of unspecified elements (see MPEP 2111.03 [R-2] Transitional Phrases).

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The “gripper” recited in claims 1-6 has no support either in the specification or drawing to explain how the gripper works. It is unclear what mechanism enables the gripper to grip the leading edge of the film?

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Gambetti (6,128,888).

Gambetti discloses an apparatus comprising:

a feed table 1, 2 on which the product 50a are being transported toward the station 34 for making the packages 50; means for unwinding the stretch film 32a and forming the length of film around package 50; performing means 15 located on feed table and being mobile between several working positions in order to stretch the length of film around the product; wherein the means for unwinding and forming the film length comprise at least:

a roll of stretch film 32 (inherently discloses) located near the means 15 for performing the package; means 22, 24 for cutting a length of the film unwound from the roll of stretch film 32 and located upstream of the performing means 15; means 14 for gripping the film and moving along a substantially ring-shaped path around the package performing means and place the leading and trailing ends of the length 32 of film into contact with each other (figures 8 & 15); a unit, located close to the performing means 15, for stably joining the ends together to form the length of film into a tubular shape around the performing means (figures 2-15).

Gambetti further comprising: a single gripper 14 for holding the leading end of the film, the gripper being mobile along the ring-shaped path around the performing means

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15; cutting means 22, 24 are positioned upstream of a film transporting surface; the transporting surface comprises an endless belt 2 trained around at least one pair of rollers, of which at least one is motor driven in synchrony with the performing means; and the cutting means being positioned at the end of the belt furthest away from the performing means.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koenders (3,777,452) in view of Fukunaga et al. (5,473,861).

Koenders discloses an apparatus comprising:

a feed table 6 on which the product 3 are being transported toward the station for making the packages; means 4, 5 for unwinding the stretch film 2 and forming the length of film around package 3; performing means 7 located on feed table and being mobile between several working positions in order to stretch the length of film around the product; wherein the means for unwinding and forming the film length comprise at least:

a roll of stretch film 10 located near the means 7 for performing the package; means 19 for cutting a length of the film unwound from the roll of stretch film 2 and

located upstream of the performing means; means 44, 45 for gripping the film and moving along a substantially ring-shaped path around the package performing means.

Koenders discloses the claimed invention, but does not expressly disclose the sealing unit for stably joining the ends together to form the length of film into a tubular shape around the performing means.

Fukunaga discloses a sealing unit 15a, 15b for joining the ends of the length of stretch film together (figures 11 & 25b) providing a more effective tubular wrapping sealed. Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified the Koenders apparatus by incorporating the sealing unit as taught by Fukunaga to provide a better sealing means for the wrapped package.

The modified device of Koenders further discloses: gripping means 44, 45 being mobile along the ring-shaped path and being positioned on one side of the performing means; and cutting means 19 are positioned upstream of a film transporting surface.

Although Koenders cutting means is not a circular knife, the examiner take Official Notice that it is well known in the art of cutting to use circular knife to cut film strip. Moreover, Koenders' cutting means is an art-recognized equivalent of the circular knife for cutting the length of film strip for wrapping the product, and it is immaterial how the film strip is being cut. Therefore, one of ordinary skill in the art would have found it obvious to substitute a cutting means as taught by Koenders for the circular knife.

***Allowable Subject Matter***

8. Claims 5, 6 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K Truong whose telephone number is (703) 605-0423. The examiner can normally be reached on Mon-Thurs from 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
EUGENE KIM  
PRIMARY EXAMINER

Tkt  
September 22, 2004.